

## Commodity Futures Trading Commission

## § 145.5

functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(c) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(d) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the Commission; and

(e) Each amendment, revision, or repeal of the foregoing.

[41 FR 16290, Apr. 16, 1976]

### **§ 145.2 Records available for public inspection and copying; documents published and indexed.**

Except as provided in §145.5, pertaining to nonpublic matters, and in addition to those documents listed in appendix A to part 145, Compilation of Commission Records Available to the Public, the following materials are available for public inspection and copying during normal business hours at the Commission's Public Reading Room, located at the principal office of the Commission in Washington, DC and at the regional offices of the Commission:

(a) A guide for requesting records or publicly available information from the Commission which includes:

(1) An index of all publicly available information of the Commission;

(2) A description of major information and record locator systems;

(3) Guidance for obtaining various types and categories of public information from the Commission;

(b) Final opinions and orders of the Commission in the adjudication of cases, including concurring and dissenting opinions;

(c) Statements of policy and interpretations which have been adopted by the Commission and are not published in the FEDERAL REGISTER;

(d) Records released in response to FOIA requests that have been, or the Commission anticipates will be, the subject of additional FOIA requests;

(e) Administrative manuals and instructions that affect the public; and

(f) Indices providing identifying information to the public as to the materials made available pursuant to paragraphs (a) through (e) of this section.

[62 FR 17069, Apr. 9, 1997]

### **§ 145.3 [Reserved]**

### **§ 145.4 Public records available with identifying details deleted; nonpublic records available in abridged or summary form.**

(a) To the extent required to prevent a clearly unwarranted invasion of personal privacy, the Commission may delete identifying details when it makes available "public records" as defined in §145.0(c). In such instances, the Commission shall explain the justification for the deletion fully in writing.

(b) Certain "nonpublic records," as defined in §145.0(d), may, as authorized by the Commission, be made available for public inspection and copying in an abridged or summary form, with identifying details deleted.

[51 FR 26869, July 28, 1986]

### **§ 145.5 Disclosure of nonpublic records.**

The Commission may decline to publish or make available to the public any "nonpublic records," as defined in §145.0(d), if those records fall within the descriptions in paragraphs (a) through (i) of this section. The Commission shall publish or make available reasonably segregable portions of "nonpublic records" subject to a request under §145.7 if those portions do not fall within the descriptions in paragraphs (a) through (i) of this section. Requests for confidential treatment of segregable public information will not be processed.

(a)(1) Specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy, and (2) are in fact properly classified pursuant to such executive order;

(b) Related solely to the internal personnel rules and practices of the Commission or any other agency of the Government of the United States, including operation rules, guidelines, and manuals of procedure for investigators, auditors, and other employees (other than those rules and practices which

## § 145.5

## 17 CFR Ch. I (4–1–13 Edition)

establish legal requirements to which members of the public are expected to conform);

(c) Specifically exempted from disclosure by statute, including:

(1) Data and information which would separately disclose the business transactions or market positions of any person and trade secrets or names of customers; and

(2) Any data or information concerning or obtained in connection with any pending investigation of any person;

(d) Trade secrets and commercial or financial information obtained from a person and privileged or confidential, including, but not limited to:

(1)(i) Reports of stocks of grain, such as Forms 38, 38C, 38M and 38T required to be filed pursuant to 17 CFR 1.44;

(ii) Statements of reporting traders on Form 40 required to be filed pursuant to 17 CFR 18.04;

(iii) Statements concerning special calls on positions required to be filed pursuant to 17 CFR part 21;

(iv) Statements concerning identification of special accounts on Form 102 required to be filed pursuant to 17 CFR 17.01;

(v) Reports required to be filed pursuant to parts 15 through 21 of this chapter;

(vi) Reports concerning option positions of large traders required to be filed pursuant to part 16 of this chapter;

(vii) Form 188; and

(viii) The following reports and statements that are also set forth in paragraph (h) of this section, except as specified in 17 CFR 1.10(g)(2) or 17 CFR 31.13(m): Forms 1–FR required to be filed pursuant to 17 CFR 1.10; FOCUS reports that are filed in lieu of Forms 1–FR pursuant to 17 CFR 1.10(h); Forms 2–FR required to be filed pursuant to 17 CFR 31.13; the accountant's report on material inadequacies filed in accordance with 17 CFR 1.16(c)(5); all reports and statements required to be filed pursuant to 17 CFR 1.17(c)(6); and

(A)(I) The following portions of Form CPO–PQR required to be filed pursuant to 17 CFR 4.27: Schedule A: Question 2, subparts (b) and (d); Question 3, subparts (g) and (h); Question 9; Question 10, subparts (b), (c), (d), (e), and (g);

Question 11; Question 12; and Schedules B and C;

(2) The following portions of Form CTA–PR required to be filed pursuant to 17 CFR 4.27: Question 2, subparts (c) and (d);

(2) Information contained in reports, summaries, analyses, transcripts, letters or memoranda arising out of, in anticipation of or in connection with an examination or inspection of the books and records of any person or any other formal or informal inquiry or investigation; and

(3) Information for which confidential treatment has been requested and granted in accordance with §145.9;

(e) Inter-agency or intra-agency memoranda or letters, except those which by law would routinely be made available to a party other than an agency in litigation with the Commission, including:

(1) Records which reflect discussions between or consideration by members of the Commission or members of its staff, or both, of any action taken or proposed to be taken by the Commission or by any member of its staff; and

(2) Reports, summaries, analyses, conclusions, or any other work product of members of the Commission or of attorneys, accountants, economists, analysts, or other members of the Commission's staff, prepared in the course of an inspection of the books or records of any person whose affairs are regulated by the Commission, or prepared otherwise in the course of any formal or informal inquiry, examination or investigation or related litigation conducted by or on behalf of the Commission;

(f) Personnel files, medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, including but not limited to, information of that character contained in:

(1) Files concerning employees of the Commission;

(2) Files concerning persons subject to regulation by the Commission, including files with respect to applications for registration and biographical supplements submitted with such applications. Examples of the information on the applications and biographical supplements which may be protected are an individual's home address

## Commodity Futures Trading Commission

## § 145.6

and telephone number, social security number, date and place of birth, fingerprints and, in appropriate cases, the information concerning prior arrests, indictments, criminal convictions or other judgments or sanctions imposed by State or Federal courts or regulatory authorities;

(3) Files concerning information for which confidential treatment has been requested and granted in accordance with § 145.9;

(g) Records or information compiled for law enforcement purposes to the extent that the production of such records or information:

(1) Could reasonably be expected to interfere with enforcement activities undertaken or likely to be undertaken by the Commission or any other authority including, but not limited to, the Department of Justice or any United States Attorney or any Federal, State, local, or foreign governmental authority or any futures or securities industry self-regulatory organization;

(2) Would deprive a person of a right to a fair trial or an impartial adjudication;

(3) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(4) Could reasonably be expected to disclose the identity of a confidential source including a State, local or foreign agency or authority or any private institution which furnished information on a confidential basis and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(5) Would disclose techniques or procedures or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(6) Could reasonably be expected to endanger the life or physical safety of any individual.

(h) Contained in or related to examinations, operating, or condition reports prepared by, on behalf of, or for the use of the Commission or any other agency responsible for the regulation or super-

vision of financial institutions, including, but not limited to the following reports and statements that are also set forth in paragraph (d)(1)(viii) of this section, except as specified in 17 CFR 1.10(g)(2) and 17 CFR 31.13(m): Forms 1-FR required to be filed pursuant to 17 CFR 1.10; FOCUS reports that are filed in lieu of Forms 1-FR pursuant to 17 CFR 1.10(h); Forms 2-FR required to be filed pursuant to 17 CFR 31.13; the accountant's report on material inadequacies filed in accordance with 17 CFR 1.16(c)(5); all reports and statements required to be filed pursuant to 17 CFR 1.17(c)(6); and

(1) The following portions of Form CPO-PQR required to be filed pursuant to 17 CFR 4.27: Schedule A: Question 2, subparts (b) and (d); Question 3, subparts (g) and (h); Question 9; Question 10, subparts (b), (c), (d), (e), and (g); Question 11; Question 12; and Question 13; and Schedules B and C;

(2) The following portions of Form CTA-PR required to be filed pursuant to 17 CFR 4.27: Question 2, subparts (c) and (d); and

(i) Geological and geophysical information and data, including maps, concerning wells.

(5 U.S.C. 552, 5 U.S.C. 552b, and secs. 2(a)(11), 4b, 4f, 4g, 5a, 8a, and 17 of the Commodity Exchange Act, 7 U.S.C. 2, 4a(j), 6b, 6f, 6g, 7a, 12a, and 21, as amended, 92 Stat. 865 *et seq.*; secs. 2(a)(1), 4c(a)-(d), 4d, 4f, 4g, 4k, 4m, 4n, 8a, 15 and 17, Commodity Exchange Act (7 U.S.C. 2, 4, 6c(a)-(d), 6f, 6g, 6k, 6m, 6n, 12a, 19 and 21; 5 U.S.C. 552 and 552b); secs. 2(a)(11) and 8 of the Commodity Exchange Act, 7 U.S.C. 4(j) and 12 (1983); secs. 8a(5) and 19 of the Commodity Exchange Act, as amended, 7 U.S.C. 12a(5) and 23 (1982); 5 U.S.C. 552 and 552b)

[41 FR 16290, Apr. 16, 1976, as amended at 44 FR 13458, Mar. 12, 1979; 45 FR 2023, Jan. 10, 1980; 46 FR 24943, May 4, 1981; 46 FR 54534, Nov. 3, 1981; 48 FR 35303, Aug. 3, 1983; 49 FR 4464, Feb. 7, 1984; 49 FR 5541, Feb. 13, 1984; 51 FR 26870, July 28, 1986; 53 FR 4613, Feb. 17, 1988; 54 FR 41084, Oct. 5, 1989; 62 FR 4642, Jan. 31, 1997; 64 FR 25, Jan. 4, 1999; 71 FR 5595, Feb. 2, 2006; 75 FR 55449, Sept. 10, 2010; 77 FR 11342, Feb. 24, 2012]

### **§ 145.6 Commission offices to contact for assistance; registration records available.**

(a) Whenever this part directs that a request be directed to the Assistant Secretary of the Commission for FOI,